

**IN THE UNITED STATES DISTRICT COURT FOR THE  
WESTERN DISTRICT OF MISSOURI  
SOUTHERN DIVISION**

<b>UNITED STATES OF AMERICA,</b>	)	
	)	
Plaintiff,	)	
	)	
v.	)	No. 04-03105-01-CR-S-RED
	)	
<b>PATRICIA S. THYER,</b>	)	
	)	
Defendant.	)	

**PLEA AGREEMENT**

Pursuant to Rule 11(c)(1)(B) of the Federal Rules of Criminal Procedure, the parties described below have entered into the following plea agreement:

**1. The Parties.** The parties to this agreement are the United States of America, acting through the United States Attorney's Office for the Western District of Missouri (otherwise referred to as "the Government" or "the United States"), represented by Todd P. Graves, United States Attorney, and Richard E. Monroe, Assistant United States Attorney, and the defendant, Patricia S. Thyer, represented by John Anthony Picerno and Susan A. Faust.

The defendant understands and agrees that this plea agreement is only between her and the United States Attorney for the Western District of Missouri, and that it does not bind any other federal, state, or local prosecution authority or any other government agency, unless otherwise specified in this agreement.

**2. Defendant's Guilty Plea.** The defendant agrees to and hereby does plead guilty to Counts One and Three of the indictment charging her with a violation, in

Count One, of 18 U.S.C. § 1958, that is, use of a facility of interstate commerce for murder for hire and with a violation, in Count Three, of 18 U.S.C. § 924(c), carrying or using a firearm during and in relation to a crime of violence. The defendant also agrees to plead guilty to Count Five, alleging forfeiture of property and agrees to forfeit to the United States the property described in the Count Five of the indictment. By entering into this plea agreement, the defendant admits that she knowingly committed these offenses, and is in fact guilty of these offenses.

**3. Factual Basis for Guilty Plea.** The parties agree the facts constituting the offenses to which she is pleading guilty are as follows:

Patricia S. Thyer, the defendant, and David B. Thyer, the victim, were married July 17, 1988, in Texas. Defendant filed for divorce in Crawford County, Kansas, on January 11, 1999. The pair divorced in 1999, but resumed or continued living together in Kansas until 2001 and then from 2001 to January 2004 in Mountain Grove, Missouri. David finally left defendant and moved to Girard, Kansas, in January 2004. Nonetheless, David frequently traveled to Mountain Grove from Kansas on weekends and stayed with defendant.

Dennis Deason is a Special Agent with the United States Forest Service assigned to the South Central Drug Task Force. During the week of June 21, 2004, the Wright County Sheriff contacted the South Central Drug Task Force needing assistance with a murder-for-hire case. Through an informant the Task Force provided Deason's undercover pager number to defendant. On Saturday, June 26, 2004, defendant contacted Deason and arranged a meeting for Monday, June 28, 2004. On June 28, 2004, Deason and defendant met in the parking lot of Wal-mart in Mountain Grove, Missouri. Defendant stated she needed to know what the price was and how it was going to be done, meaning how Deason was going to kill her ex-husband. Defendant asked if it could be done to look like an automobile accident. Defendant identified her ex-husband as David Thyer and that he lived in Girard, Kansas. Defendant asked what Deason charged and Deason stated, "I usually charge \$25,000, but would do it for \$10,000 or something of equal value." Defendant stated she could come up with \$2,000 in cash and give him some guns to make up the difference. Defendant stated there was approximately \$150,000 worth of guns locked in a semi-trailer that belonged to her ex-husband located at her residence. Defendant paid Deason \$100 for meeting with her.

On July 12, 2004, Deason and defendant again met in the Wal-mart parking lot. Deason told defendant that she needed to make up her mind. They had already agreed on \$2,000 and the guns. Defendant said they would have to cut the locks on the trailer to get to the guns, but David had to be dead first. Defendant said that David Thyer would be at her residence the coming weekend. Defendant asked if Deason could make it look like self-defense by coming into her house, shooting David Thyer, and making David's hands appear scratched and beaten. Then defendant wanted Deason to beat her up. Defendant said she would get her fingerprints all over the gun. This way it would look like defendant's ex-husband had beaten her and she had to shoot him in self-defense. Defendant asked Deason if he had a tool to put on a .38, meaning a silencer. Defendant then asked if he wanted her to drug David to make sure he was sleeping soundly. Deason asked defendant if she had a .38 handgun and she said she did. Defendant had Deason follow her to her residence so he would know where she lived and to get the gun. Defendant paid Deason \$300 for this meeting. Deason followed defendant to her residence and defendant showed Deason where David slept on the left side of the bed. Defendant went to her side of the bed and removed a Cobra .38 special handgun from under the mattress and handed it to Deason. Deason determined that it was loaded. Defendant stated that it was not to be used for anything but this, meaning the shooting of David Thyer. Deason told defendant that it would be better to make it look like a robbery. Defendant asked Deason what he would want to steal and how he would get in the house, and defendant said she would leave the back door open. Deason told defendant that he would need the \$2,000 on Friday up-front which she agreed to.

On July 15, 2004, David Thyer called from Kansas to defendant's home in Mountain Grove as a courtesy to let her know he was traveling to stay the weekend with her. Defendant was very insistent that David Thyer tell her exactly when he would arrive.

Defendant paged Deason for a final meeting which took place in the Wal-Mart parking lot on July 16, 2004. At this meeting defendant gave Deason \$1,000.00 and stated that she would pay Deason the other \$1,000.00 after David Thyer was dead. Deason gave defendant a final opportunity to back out but she, after a pause said, "I have nothing to lose and everything to gain." Defendant was taken into custody by BATFE at that point pursuant to a complaint previously filed in criminal court.

Defendant gave consent to search a trailer on her property in which numerous firearms were located.

David Thyer arrived from Kansas. David Thyer identified several documents. These include a forged codicil to David's will which has favorable terms for defendant, several fraudulent liens defendant had put on David's property in

Oklahoma, and a premium statement addressed to defendant's address for a life insurance policy on David's life of which David was unaware.

**4. Use of Factual Admissions.** The defendant acknowledges, understands and agrees that the admissions contained in Paragraph 3 and other portions of this plea agreement will be used for the purpose of determining her guilt and advisory sentencing range under the United States Sentencing Guidelines ("U.S.S.G."), including the calculation of the defendant's offense level in accordance with U.S.S.G. § 1B1.3(a)(2). The defendant acknowledges, understands and agrees that the conduct charged in any dismissed counts of the indictment as well as all other uncharged related criminal activity may be considered as "relevant conduct" pursuant to U.S.S.G. § 1B1.3(a)(2) in calculating the offense level for the charge to which she is pleading guilty.

**5. Statutory Penalties.** The defendant understands that upon her plea of guilty to Count One of the Indictment, charging her with a violation of 18 U.S.C. § 1958, the maximum penalty the court may impose is not more than ten years of imprisonment, a \$250,000 fine, three years supervised release, and a \$100 mandatory special assessment.

The defendant understands that upon her plea of guilty to Count Three of the indictment charging her with a violation of 18 U.S.C. § 924(c), the minimum penalty of incarceration the Court may impose is five years, while

maximum penalty the Court may impose is life imprisonment, a \$250,000 fine, five years of supervised release, and a \$100 mandatory special assessment.

The special assessments must be paid in full at the time of sentencing.

The sentence of imprisonment imposed as to Count Three must be served consecutive to the term of imprisonment imposed as to Count One.

**6. Sentencing Procedures.** The defendant acknowledges, understands and agrees to the following:

- a. in determining the appropriate sentence, the Court will consult and consider the United States Sentencing Guidelines promulgated by the United States Sentencing Commission; these Guidelines, however, are merely advisory in nature, and the Court may impose a sentence either less than or greater than the defendant's applicable Guidelines range, unless the sentence imposed is "unreasonable";
- b. the Court will determine the defendant's applicable Sentencing Guidelines range at the time of sentencing;
- c. in addition to a sentence of imprisonment, the Court may impose a term of supervised release of up to three years as to Count One and up to five years as to Count Three; that the Court must impose a period of supervised release if a sentence of imprisonment of more than one year is imposed;
- d. if the defendant violates a condition of her supervised release, the court may revoke her supervised release and impose an additional period of imprisonment of up to two years, as to Count One, and five years, as to Count Three, without credit for time previously spent on supervised release, and that in addition to a new term of imprisonment, the Court may impose a new period of supervised release, the length of which cannot exceed

three years as to Count One and five years as to Count Three, less the term of imprisonment imposed upon revocation of the defendant's first supervised release;

- e. the Court may impose any sentence authorized by law, including a sentence that is outside of, or departs from, the applicable Sentencing Guidelines range;
- f. any sentence of imprisonment imposed by the Court will not allow for parole.
- g. the Court may order restitution to be paid to victims of the offense to which she is pleading guilty, the conduct charged in any dismissed counts of the indictment, and all other uncharged related criminal activity;
- h. the Court is not bound by any recommendation regarding the sentence to be imposed or by any calculation or estimation of the Sentencing Guidelines range offered by the parties or the United States Probation Office; and
- i. the defendant may not withdraw her guilty pleas solely because of the nature or length of the sentence imposed by the Court.

**7. Government's Agreements.** Based upon evidence in its possession at this time, the United States Attorney's Office for the Western District of Missouri, as part of this plea agreement, agrees not to bring any additional charges against defendant for any federal criminal offenses related to her attempt to have David Thyer murdered for which it has venue and which arose out of the defendant's conduct described above. Additionally, the United States Attorney for the Western District of Missouri agrees to dismiss Counts

Two (violation of 18 U.S.C. § 373) and Four (violation of 18 U.S.C. § 924(g)) at sentencing.

The defendant understands that this plea agreement does not foreclose any prosecution for another act of murder or attempted murder, another act or attempted act of physical or sexual violence against the person of another, or another conspiracy to commit any such acts of violence, or any criminal activity of which the United States Attorney for the Western District of Missouri has no knowledge.

The defendant recognizes that the United States' agreement to forego prosecution of all of the criminal offenses with which the defendant might be charged is based solely on the promises made by the defendant in this agreement. If the defendant breaches this plea agreement, the United States retains the right to proceed with the original charges and any other criminal violations established by the evidence. The defendant expressly waives her right to challenge the initiation of the dismissed or additional charges against her if she breaches this agreement. The defendant expressly waives her right to assert a statute of limitations defense if the dismissed or additional charges are initiated against her following a breach of this agreement. The defendant further understands and agrees that if the Government elects to file additional charges against her following her breach of this plea agreement, she will not be allowed to withdraw her guilty pleas.

**8. Preparation of Presentence Report.** The defendant understands the United States will provide to the Court and the United States Probation Office a government version of the offense conduct. This may include information concerning the background, character, and conduct of the defendant, including the entirety of her criminal activities. The defendant understands these disclosures are not limited to the count to which she has pleaded guilty. The United States may respond to comments made or positions taken by the defendant or the defendant's counsel and to correct any misstatements or inaccuracies. The United States further reserves its right to make any recommendations it deems appropriate regarding the disposition of this case, subject only to any limitations set forth in this plea agreement. The United States and the defendant expressly reserve the right to speak to the Court at the time of sentencing pursuant to Rule 32(i)(4) of the Federal Rules of Criminal Procedure.

**9. Forfeiture.**

a. The defendant agrees to forfeit all interests she owns or over which she exercises control, directly or indirectly, in the property identified in Count Five as Fourteen Hundred Dollars (\$1,400) in United States currency. With respect to any asset which the defendant has agreed to forfeit, the defendant waives any constitutional and statutory challenges in any manner (including direct appeal, habeas corpus, or any other means) to any forfeiture carried out in accordance with this plea agreement on any grounds, including that the forfeiture constitutes an excessive fine or punishment under the Eighth Amendment to the United States Constitution.



b. The defendant agrees to take all necessary steps to comply with the forfeiture matters set forth herein before her sentencing.

c. The defendant states that she is the sole and rightful owner of the property identified in Count Five and that to the best of her knowledge no one else has any ownership or other interest in the property. In the event any federal, state or local law enforcement agency having custody of the property decides not to pursue forfeiture of the property due to its minimal value, the defendant hereby abandons any interest she has in such property and consents to the destruction or any other disposition of the property by the federal, state or local agency without further notice or obligation whatsoever owing to the defendant.

**10. Withdrawal of Plea.** The defendant understands that if the Court accepts her plea of guilty and this plea agreement but imposes a sentence that is outside the defendant's applicable Sentencing Guidelines range, or imposes a sentence that the defendant does not expect, like or agree with, she will not be permitted to withdraw her plea of guilty.

**11. Agreed Guidelines Applications.** With respect to the application of the Sentencing Guidelines to this case, the parties stipulate and agree as follows:

a. The Sentencing Guidelines do not bind the Court and are merely advisory in nature. The Court may impose a sentence that is either above or below the defendant's applicable Guidelines range, provided the sentence imposed is not "unreasonable";

b. The applicable Guidelines section for the offense of conviction in Count One is U.S.S.G. § 2E1.4, which provides for a base offense level of 32;

c. The defendant has admitted her guilt and clearly accepted responsibility for her actions, and has assisted authorities in the investigation or prosecution of her own misconduct by timely notifying authorities of her intention to enter a plea of guilty, thereby permitting the Government to avoid preparing for trial and permitting the Government and the Court to allocate their resources efficiently. Therefore, she is entitled to a three-level reduction pursuant to § 3E1.1(b) of the Sentencing Guidelines. The Government, at the time of sentencing, will file a written motion with the Court to that effect;

d. There is no agreement between the parties regarding the defendant's criminal history category. The parties agree that the Court will determine her applicable criminal history category after receipt of the presentence investigation report prepared by the United States Probation Office;

e. The defendant understands that the estimate of the parties with respect to the Guidelines computation set forth in the subsections of this paragraph does not bind the Court or the United States Probation Office with respect to the appropriate Guidelines levels. Additionally, the failure of the Court to accept these stipulations will not, as outlined in paragraph 10 of this plea agreement, provide the defendant with a basis to withdraw her plea of guilty;

f. The United States agrees not to seek an upward departure from the Guidelines or a sentence outside the Guidelines range, and defendant agrees to not seek a downward departure from the Guidelines or a sentence outside the Guidelines range. The agreement by the parties to not seek a departure from the Guidelines is not binding upon the Court or the United States Probation Office and the Court may impose any sentence authorized by law, including any sentence outside the applicable Guidelines range that is not "unreasonable";

g. The defendant consents to judicial fact-finding by a preponderance of the evidence of any contested issues pertaining to the determination of the defendant's sentence under the United States Sentencing Guidelines. The defendant

waives any right to a jury determination beyond a reasonable doubt of all facts used to determine and enhance the sentence imposed, and waives any right to have those facts alleged in the indictment. The defendant also agrees that the Court, in finding the facts relevant to the imposition of sentence under the Guidelines, may consider any reliable information, including hearsay; and,

h. The defendant understands and agrees that the factual admissions contained in paragraphs 3 and 4 of this plea agreement, and any admissions that she will make during her plea colloquy, support the imposition of the agreed Guidelines calculations contained in this agreement.

**12. Effect of Non-Agreement on Guidelines Applications.** The parties understand, acknowledge and agree that there are no agreements between the parties with respect to any Sentencing Guidelines issues other than those specifically listed in Paragraph 11, and its subsections. As to any other Guidelines issues, the parties are free to advocate their respective positions at the sentencing hearing.

**13. Change in Guidelines Prior to Sentencing.** The defendant agrees that if any applicable provision of the Guidelines changes after the execution of this plea agreement, then any request by defendant to be sentenced pursuant to the new Guidelines will make this plea agreement voidable by the United States at its option. If the Government exercises its option to void the plea agreement, the United States may charge, reinstate, or otherwise pursue any and all criminal charges that could have been brought but for this plea agreement.

**14. Government's Reservation of Rights.** The defendant

understands that the United States expressly reserves the right in this case to:

- a. oppose or take issue with any position advanced by defendant at the sentencing hearing which might be inconsistent with the provisions of this plea agreement;
- b. comment on the evidence supporting the charge in the superseding indictment;
- c. oppose any arguments and requests for relief the defendant might advance on an appeal from the sentences imposed; and,
- d. oppose any post-conviction motions for reduction of sentence, or other relief.

**15. Waiver of Constitutional Rights.** The defendant, by pleading

guilty, acknowledges that she has been advised of, understands, and knowingly and voluntarily waives the following rights:

- a. the right to plead not guilty and to persist in a plea of not guilty;
- b. the right to be presumed innocent until her guilt has been established beyond a reasonable doubt at trial;
- c. the right to a jury trial, and at that trial, the right to the effective assistance of counsel;
- d. the right to confront and cross-examine the witnesses who testify against her;
- e.. the right to compel or subpoena witnesses to appear on her behalf; and,
- f. the right to remain silent at trial, in which case her silence may not be used against her.

The defendant understands that by pleading guilty, she waives or gives up those rights and that there will be no trial. The defendant further understands that if she pleads guilty, the Court may ask her questions about the offense or offenses to which she pleaded guilty, and if the defendant answers those questions under oath and in the presence of counsel, her answers may later be used against her in a prosecution for perjury or making a false statement. The defendant also understands she has pleaded guilty to a felony offense and, as a result, will lose her right to possess a firearm or ammunition and might be deprived of other rights, such as the rights to vote or register to vote, hold public office, or serve on a jury.

**16. Waiver of Appellate and Post-Conviction Rights.**

- a. The defendant acknowledges, understands and agrees that by pleading guilty pursuant to this plea agreement she waives her right to appeal or collaterally attack a finding of guilt following the acceptance of this plea agreement.
- b. The defendant expressly waives her right to appeal her sentence, directly or collaterally, on any ground except a sentence imposed in excess of the statutory maximum or an illegal sentence, *i.e.*, a sentence that is contrary to law. However, if the United States exercises its right to appeal the sentence imposed as authorized by 18 U.S.C. § 3742(b), the defendant is released from this waiver and may, as part of the Government's appeal, cross-appeal her sentence as authorized by 18 U.S.C. § 3742(a) with respect to any issues that have not been stipulated to or agreed upon in this agreement.

**17. Waiver of FOIA Request.** The defendant waives all of her rights, whether asserted directly or by a representative, to request or receive from any department or agency of the United States any records pertaining to the investigation or prosecution of this case including, without limitation, any records that may be sought under the Freedom of Information Act, 5 U.S.C. § 552, or the Privacy Act of 1974, 5 U.S.C. § 552a.

**18. Defendant's Breach of Plea Agreement.** If the defendant commits any crimes, violates any conditions of release, or violates any term of this plea agreement between the signing of this plea agreement and the date of sentencing, or fails to appear for sentencing, or if the defendant provides information to the Probation Office or the Court that is intentionally misleading, incomplete, or untruthful, or otherwise breaches this plea agreement, the United States will be released from its obligations under this agreement. The defendant, however, will remain bound by the terms of the agreement, and will not be allowed to withdraw her plea of guilty.

The defendant also understands and agrees that in the event she violates this plea agreement, all statements made by her to law enforcement agents subsequent to the execution of this plea agreement, any testimony given by her before a grand jury or any tribunal or any leads from such statements or testimony shall be admissible against her in any and all criminal proceedings. The defendant waives any rights that she might assert under the United States

Constitution, any statute, Federal Rules of Criminal Procedure, Section 11(e)(6), Federal Rules of Evidence, Section 410, or any other federal rule that pertains to the admissibility of any statements made by her subsequent to this plea agreement.

**19. Defendant's Representations.** The defendant acknowledges that she has entered into this plea agreement freely and voluntarily after receiving the effective assistance, advice and approval of counsel. The defendant acknowledges that she is satisfied with the assistance of counsel, and that counsel has fully advised her of her rights and obligations in connection with this plea agreement. The defendant further acknowledges that no threats or promises, other than the promises contained in this plea agreement, have been made by the United States, the Court, her attorneys or any other party to induce her to enter her plea of guilty.

**20. No Undisclosed Terms.** The United States and defendant acknowledge and agree that the above-stated terms and conditions constitute the entire plea agreement between the parties, and that any other terms and conditions not expressly set forth in this agreement do not constitute any part of the parties' agreement and will not be enforceable against either party.

**21. Standard of Interpretation.** The parties agree that, unless the constitutional implications inherent in plea agreements require otherwise, this plea agreement should be interpreted according to general contract principles

and the words employed are to be given their normal and ordinary meanings. The parties further agree that, in interpreting this agreement, any drafting errors or ambiguities are not to be automatically construed against either party, whether or not that party was involved in drafting or modifying this agreement.

TODD P. GRAVES  
United States Attorney

Dated: 6/14/05

By /s/

Richard E. Monroe  
Assistant United States Attorney

I have consulted with my attorneys and fully understand all of my rights with respect to the offense charged in the indictment. Further, I have consulted with my attorneys and fully understand my rights with respect to the provisions of the Sentencing Guidelines. I have read this plea agreement and carefully reviewed every part of it with my attorneys. I understand this plea agreement and I voluntarily agree to it.

Dated: 6/14/05

/s/

All Rights Reserved

Patricia S. Thyer  
Defendant

We are defendant Patricia S. Thyer's attorneys. We have fully explained to her her rights with respect to the offense charged in the indictment. Further, we have reviewed with her the provisions of the Sentencing Guidelines which might apply in this case. We have carefully reviewed every part of this plea agreement with her. To our knowledge, Patricia S. Thyer's decision to enter into this plea agreement is an informed and voluntary one.

Dated: 6/14/05

/s/

John Anthony Picerno  
Attorney for Defendant

Dated 6/14/05

/s/

Susan A. Faust  
Attorney for Defendant